

# HB279 INTRODUCED



1 HB279  
2 IT95666-1  
3 By Representatives Daniels, Rafferty, Hollis, Clarke,  
4 Drummond, Warren, Moore (M), Hall  
5 RFD: Judiciary  
6 First Read: 05-Mar-24



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SYNOPSIS:

Under existing Alabama law, there is no explicit recognition of the right to distribute and use contraceptives.

This bill would recognize that individuals have the right to engage in contraception and that health care providers have the right to both dispense contraceptive devices and provide information about their use.

This bill would further provide for enforcement of these rights by permitting the Attorney General, health care providers, and individuals to bring a civil suit to enjoin the enforcement of any law, rule, or policy that prohibits or interferes with the distribution and use of contraceptives. This bill would also provide for defenses to those claims.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to contraception; to provide that individuals have the right to use contraception and that health care providers have the right to dispense contraceptive devices



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29 that have been approved by the federal Food and Drug  
30 Administration; to prohibit the state and political  
31 subdivisions from enforcing any law that would interfere with  
32 the distribution and use of contraceptives; and to further  
33 provide for a civil cause of action by the Attorney General,  
34 health care providers, and consumers to enforce this act.

35 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

36 Section 1. For the purposes of this act, the following  
37 terms have the following meanings:

38 (1) CONTRACEPTION. Any action taken to prevent  
39 pregnancy, including the use of contraceptives or  
40 sterilization procedures.

41 (2) CONTRACEPTIVE. Any drug, device, biological  
42 product, or method that is intended for use in the prevention  
43 of pregnancy, whether specifically intended to prevent  
44 pregnancy or for other health needs, that is legally marketed  
45 under the federal Food, Drug, and Cosmetic Act, including oral  
46 contraceptives, long-acting reversible contraceptives such as  
47 intrauterine devices and hormonal contraceptive implants,  
48 emergency contraceptives, internal and external condoms,  
49 injectables, vaginal barrier methods, transdermal patches, and  
50 vaginal rings.

51 (3) HEALTH CARE PROVIDER. A person engaged in providing  
52 health care which dispenses legally marketed contraceptives to  
53 individuals. The term includes:

54 a. A physician, physician assistant, certified nurse  
55 practitioner, or a pharmacist licensed pursuant to Title 34,  
56 Code of Alabama 1975.



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57           b. A hospital, clinic, emergency center, reproductive  
58 health service, or other health care institution or service  
59 licensed pursuant to Title 22, Code of Alabama 1975, or a  
60 pharmacy.

61           Section 2. (a) An individual who resides in the State  
62 of Alabama shall have the right to obtain contraceptives and  
63 to engage in contraception. A health care provider shall have  
64 the right to dispense contraceptives and provide information  
65 about contraception.

66           (b) The rights provided for in subsection (a) may not  
67 be infringed upon by any law, rule, or policy that expressly  
68 limits, delays, or impedes access to contraceptives or  
69 information about contraception.

70           Section 3. (a) The state, any department, agency, or  
71 instrumentality of the same, or any political subdivision of  
72 the state, may not implement, administer, or enforce any law,  
73 rule, or policy that has the effect of any of the following:

74           (1) Prohibiting or restricting the sale, provision, or  
75 use of any contraceptive that has been approved by the U.S.  
76 Food and Drug Administration for contraception.

77           (2) Prohibiting or restricting any health care provider  
78 from aiding an individual in obtaining or using any  
79 contraceptive approved by the U.S. Food and Drug  
80 Administration.

81           (3) Exempting any contraceptive approved by the U.S.  
82 Food and Drug Administration from any other generally  
83 applicable law in a way that would make it more difficult to  
84 sell, dispense, obtain, or use the contraceptive.



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85 (b) Any individual or entity that is subject to a law,  
86 rule, or policy that violates this act may assert this section  
87 as a defense in any action to enforce the law, rule, or policy  
88 against the individual or entity.

89 Section 4. (a) The Attorney General may commence a  
90 civil action in the circuit court for injunctive relief  
91 against any person that implements, administers, or enforces  
92 any law, rule, or policy that violates, or that has the effect  
93 of violating, this act.

94 (b) (1) Any health care provider or individual adversely  
95 affected by a violation of this act may commence a civil  
96 action in circuit court for injunctive relief against any  
97 person that implements, administers, or enforces any law,  
98 rule, or policy that violates, or that has the effect of  
99 violating, this act.

100 (2) A health care provider may commence a civil action  
101 on the health care provider's behalf, or on behalf of the  
102 health care provider's patients or customers who are or who  
103 may be adversely affected by a violation of this act.

104 (c) (1) In any action commenced under this section, a  
105 party alleged to implement, administer, or enforce a law,  
106 rule, or policy in violation of this act may assert one of the  
107 following defenses:

108 a. The law, rule, or policy significantly advances the  
109 safety of contraceptives, contraception, or the quality of  
110 information about contraceptives, or the health of users, in a  
111 way that cannot be advanced by an alternative measure or  
112 action that is less restrictive.



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113           b. The law, rule, or policy that is being applied to a  
114 contraceptive or contraception is also being applied to other  
115 medically similar drugs, devices, biological products, or  
116 methods.

117           (2) A defense asserted under subdivision (1) must be  
118 established by clear and convincing evidence in order to bar a  
119 a claim brought under this section.

120           Section 5. This act shall become effective on October  
121 1, 2024.